

*Community*

Mr. Chairman:

I am pleased to testify today on the question of congressional oversight of the Central Intelligence Agency. I believe this is one of the key issues this committee and the Congress must face, for it deals not with the cataloging of past abuses, but with an avenue to help insure that abuses do not occur in the future. Equally important is the need to insure that congressional oversight helps, not hinders, the effective functioning of our nation's vital foreign intelligence effort. An essential element of effective oversight is a secure environment, where our legitimate secrets remain free from ~~public~~ exposure.

Mr. Chairman, the Central Intelligence Agency welcomes strong and effective congressional oversight. As long as it is conducted responsibly, we have nothing to fear from it, and much to gain. We gain the counsel and advice of knowledgeable Members. Through it, we can maintain the trust and support of the American people. We will retain this support only as long as the people remain confident that the political structure imposes clear accountability of our intelligence services through effective Executive and congressional oversight. Good oversight will insure that the Agency operates as the Government--and the nation--wish it to.

How the Congress exercises its oversight of the intelligence community is basically a matter for the Congress to decide. However, I do have personal views on the subject, and I would be less than candid if I did not share them. First, I would like to trace the history of our oversight relations. As you know, CIA was created by the National Security Act of 1947. Congressional

oversight began at the same time. After some initial skirmishes with the predecessors of the existing House and Senate Government Operations Committees, the Armed Services Committees of each House gained legislative oversight of the Agency. The Appropriations Committees, of course, are charged with providing operating funds for all agencies, and therefore these two committees also have been involved in the oversight process from the outset. Each of these four committees set up subcommittees of senior Members, nearly always headed by the chairman of the full committee, to exercise the full committee's oversight responsibility.

The basic oversight structure of the four committees remained intact for over 25 years, until the fall of 1974, when two significant changes occurred. Dr. Kissinger and I, in a meeting with the leadership of the House Armed Services and International Relations Committees, agreed to inform the International Relations Committee of "intelligence activities relating to foreign policy." The thrust of this agreement later became part of the omnibus House committee reform resolution.

Also, an amendment to the Foreign Assistance Act of 1974 prohibited covert action operations unless the President found each to be important to the national security, and reported a description of the operation in a timely fashion to the appropriate congressional committees. Pursuant to this law, I have been briefing six committees--the Appropriations and Armed Services Committees of each House, and the Senate Foreign Relations and House International Relations Committees--since the beginning of 1975 on these programs. Of course, the creation of the two Select Committees has further changed the face of oversight.

Although the structure of congressional oversight remained essentially the same for over 25 years, the degree of oversight actually exercised varied tremendously. This was the result not only of the different personalities involved, but chiefly of the changing times. In the 1950's every American *STILL* felt the shock of Pearl Harbor and the chill of the Cold War. The mood of the Congress and the Executive branch was that the communist threat was real, imperiled our national well-being, and had to be aggressively met on every front. There was no desire to place any shackles, congressional or otherwise, on CIA's pursuit of its mission of combatting world communism. Another relevant aspect of the national mood was the fear, fostered by the Rosenberg trial and fanned by Senator McCarthy, that communist spies had permeated our Government. This mood engendered a religious adherence to the need-to-know principle, and yielded an inclination in the Executive branch and in the Congress to hold CIA information as tightly as possible. As a result, congressional oversight was not rigorous by today's standards. Congressmen generally, and even certain CIA subcommittee members, simply did not want to know the details of CIA activities. The Agency was encouraged to "go get 'em," and budgetary review was chiefly concerned with insuring that the Agency had the assets to do the job.

During this period there were a few attempts at change. Senator Mansfield offered a Joint Committee bill in 1956, and it was reported by the Committee on Rules and Administration. Supporters cited the record of infrequent meetings of the oversight committees and the June 1955 recommendation

of the Second Hoover Commission that Congress consider establishing a Joint Committee to oversee the Central Intelligence Agency. The Congress voted down this Joint Committee bill 59-27.

The 1960's can be viewed as an era of transition. The Sputnik space shot and the charges of a missile gap increased the demand for CIA's intelligence product. In addition, publicity adverse to the Agency, such as the disclosure of Agency funding of the National Students Association, focused a brighter public spotlight on the Agency. As a result, the tempo of oversight increased during the 1960's, but the old habits died hard, and the big change was not to come until the 1970's.

Mr. Chairman, I do not pretend to be an expert on congressional oversight of Government agencies, but I cannot imagine that oversight of other agencies is any more rigorous than oversight of CIA has become. The oversight exercised by all four committees has strengthened markedly. One of the benchmarks of the change was Chairman Hebert's appointment of Lucien Nedzi as Chairman of the House Armed Services Special Subcommittee on Intelligence

in 1971. Indicative of Mr. Nedzi's diligence and devotion to his responsibility is the fact that under his stewardship, the number of subcommittee meetings has more than doubled. More meaningful, our contacts with Mr. Nedzi or his principal staff aides now average well over one per working day.

On the Appropriations side, oversight is exemplified by the House Committee hearings this year. Chairman Mahon this year designated the entire Subcommittee on Defense, which he chairs, to oversee the Agency's budget. During June and July of this year I testified on the CIA and intelligence community budget for a total of approximately 25 hours on six different days before the Subcommittee. In addition, the Agency provided written answers for the record on about 200 questions submitted by subcommittee members and their staff.

Unfortunately, Mr. Chairman, that is not the entire oversight picture. At the same time oversight as practiced by the designated oversight committees has become so thorough, numerous other committees are asserting their jurisdiction over Agency operational activities. The creation of the Select Committee brought to eight the number of committees officially involved in some aspect of oversight of CIA. This is a generous number by any standard. Nevertheless, since the current investigations began, at least eleven other committees have made oversight claims. No doubt some aspect of Agency activities touched upon an area which legitimately concerned these committees and individual Congressmen. Foreign intelligence has outgrown its strictly military orientation of former times and is now relevant to a broad spectrum of interests represented in Congress. Yet let us not lose sight of the effect

of this broadening oversight. Oversight is becoming fragmented and much sensitive operational information is being proliferated widely and, in some instances, haphazardly throughout the Congress. When a subcommittee on refugees solemnly announces its jurisdiction over covert activities which are by law reported to six other committees of Congress, the time has come to ask ourselves whether this kind of sunshine doesn't blind the need to adopt some sensible means for Congress to handle oversight of the most sensitive activities which our country undertakes.

That, Mr. Chairman, is where oversight stands today. Recognizing Congress' far-reaching legislative and appropriations responsibilities, it is our policy and practice to report fully to our designated oversight committees. This responsibility goes beyond merely responding to inquiries; we have an obligation to bring to the attention of our oversight committees all matters of possible interest. We will continue this policy in the future, however Congress chooses to structure oversight. In our view, therefore, the critical issues regarding oversight do not arise over the Agency's relationship with its designated oversight committees. Here the ground rules have been, and will remain, simple: full cooperation. Rather, the critical issues arise in connection with the oversight committees' relationship with the rest of Congress.

A range of proposals has been made during the 94th Congress concerning future oversight of intelligence activities. It is not my intention to endorse any particular proposal. However, because the Agency has such a major

stake in effective oversight, I would like to set forth what I believe to be the principles which a future oversight structure should embody.

The first principle is that responsibility for oversight be concentrated in the minimum number of committees necessary for effective oversight, and a corollary of this is that the jurisdiction of these designated oversight committees be exclusive.

Let me emphasize here, Mr. Chairman, that I do not wish the Agency's substantive information--the end-product of its intelligence collection--to be available only to a small group of congressional committees. Congress has an important role in the formulation of our nation's foreign policy, and I believe it is incumbent on CIA to help provide the information and analysis Congress needs to stay abreast of foreign developments. We regularly brief numerous committees--this year 12 committees--on overseas developments, using the most sensitive information available to us. It is only operational activities which I would argue need to be more tightly held.

It is my belief that concentrated, exclusive oversight will best serve the interests of both the Congress and the Agency. It will provide a more secure environment for sensitive information while yielding better oversight. The lack of expertise and perspective, of continuity and single-mindedness are obvious weaknesses with a fragmented approach to oversight. There is a more profound weakness, however. Modern intelligence is a many-faceted process but, in the last analysis, it is an integrated whole. It cannot be intelligently comprehended by investigating and dissecting its parts in isolation from the whole. Mr. Chairman, I am reminded of the story of the three blind Hindu wisemen who were trying to describe what an elephant was like. Each

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SEN. BAKER'S ELEPHANTS CRASHING IN WOODS  
AND SEN. CHURCH'S ELEPHANT  
BETTER EXAMPLE. 7

emerged with a different picture, depending on the part of the elephant he examined. In my view investigations by various committees and subcommittees which have no insight into the whole picture of intelligence tell Congress as much about this Agency and intelligence as the investigations of the Hindu wisemen told them about a whole elephant.

There is a parallel between the need for centralization in the coordination of intelligence activities themselves and the need for concentration of responsibility in reviewing these activities. The moving force behind the creation of this Agency was the idea of centralization. After Pearl Harbor it was agreed that the foreign intelligence business of the country should no longer receive fragmentary attention. It would be peculiar indeed if this Agency is destined to receive but fragmentary oversight.

Congress itself has recognized the principle of concentration of oversight. The creation of the select intelligence committees infers that each House thought the best way to review the whole intelligence picture was to concentrate responsibility in one committee. Congress did not rely on independent investigations by many different committees each pursuing their own jurisdictional interest. The principle of concentration should not be adopted for just extraordinary or emergency situations; it should be the normal mode of congressional oversight for our nation's intelligence activities.

The jurisdictional exclusivity which I am recommending would impose an added responsibility on the oversight structure. Not only must it be concerned with the Agency and intelligence community charter, but it must also act as



a surrogate on operational activities on a broader spectrum of interests for other committees whose jurisdictional interest may somehow be indirectly affected. Carrying this surrogate responsibility requires trust between the membership of the committee structure and the rest of Congress.

We all agree that in today's world foreign intelligence is essential to the survival of our country and its institutions. However, we cannot have this intelligence without secrecy. Chinks in our adversaries' armor are rapidly closed when we obligingly make them public. Our technical capabilities are nullified; our human sources are exposed. Today, without question, CIA is far and away the most open intelligence service in the world. The United Kingdom does not even reveal the identity of the chief of their intelligence component. Sweden not long ago prosecuted two newsmen for revealing the startling fact that their country has an intelligence service. Despite our relative openness, intelligence simply cannot be conducted like a New England town meeting. Secrecy remains a prerequisite to success in many of our activities. If we as a people and as a government cannot maintain secrecy in certain operational matters, then we cannot have intelligence.

The second principle which I believe must guide Congress in considering oversight is that oversight must meet this need for confidentiality. If Congress is going to protect the confidences of cooperating sources and the capabilities of our covert collection systems it must perfect a structure of oversight which includes appropriate rules and procedures to restrict operational intelligence information to the membership and staff of the designated oversight committees. Such information should not be subject to release by the committees without appropriate consultation with the originating agency.

CONFIDENTIAL  
NAMES OF SOURCES  
IN MEMORANDUM  
STATE IT

I am not alone in calling for enforceable rules and procedures. In the 93rd Congress, the House Select Committee on Committees studied the problems of protecting sensitive information on intelligence operations. It found that the dangers of the real world are such as to require very close protection of certain sensitive intelligence information. It strongly recommended that the House take the initiative to create an orderly set of rules governing the receipt, use, storage, and dissemination of sensitive intelligence information.

Mr. Chairman, in our bicentennial year, it would be well to keep in mind the lessons of our beginning. The Continental Congress appreciated the need to protect sensitive information, and insured that all members abided by it. On November 9, 1775, the Continental Congress adopted the "Resolution of Secrecy" under which any Member who disclosed a matter which the majority had determined should be kept secret was to be expelled "and deemed an enemy to the liberties of America."

The Continental Congress conducted our nation's first foreign intelligence effort. Also in November 1775, that Congress established the Committee on Secret Correspondence, and assigned it foreign intelligence responsibilities. To meet these responsibilities the Committee employed and directed a network of secret agents throughout Europe. The Continental Congress recognized the elementary principle that a secret more widely held is more poorly kept, and it took extraordinary steps to protect the secrecy of the Committee's intelligence gathering activities by sharply restricting access to operational matters.

The discipline of the Continental Congress in handling operational information is instructive today. It demonstrates that the principled--but practical--men who founded our Republic were willing to take those measures necessary to insure the success of their foreign intelligence efforts, even

On one occasion the Committee on Secret Correspondence was asked to justify why its intelligence business could not be subject to the plenary review of the Congress. The Committee answered: "Considering the nature and importance of it, we agree ... that it is our indispensable duty to keep it secret, even from Congress.... We find, by fatal experience, the Congress consists of too many Members to keep secrets." Mr. Chairman, at that time there were 56 representatives in the Congress.

Today, when this Agency willingly provides the 94th Congress the most sensitive intelligence information our country has--both substantive and operational--the Congress is virtually without rules and procedures to protect it. What rules it has are not enforced. Congress must come to grips with the need to establish rules governing responsible handling of intelligence information if we are going to preserve our vital intelligence assets.

The Joint Committee on Atomic Energy is often cited as the model of a congressional committee which can keep sensitive information secret. What must not be overlooked is the fact that the legislation establishing that Committee also enacted the Restricted Data statute which established a criminal penalty for unauthorized disclosure of the information which that Committee handles. Our nation's intelligence sources and methods have no such protection, and a committee handling intelligence information cannot be expected to equal the Atomic Energy Committee's record without a comparable statute.

Intelligence is a vital national asset, but it does not generate itself. Our intelligence sources and methods are painstakingly acquired and developed,

often at high cost. Recognizing their importance, Congress in the National Security Act of 1947 charged the Director of Central Intelligence with the responsibility of protecting intelligence sources and methods from unauthorized disclosure. Unfortunately, there is no authority commensurate with this responsibility.

Existing law is almost completely inadequate in preventing disclosures of, and often therefore, destruction of our intelligence sources and methods. These laws were written in a past generation, and tailored to fit the problems of that generation. Except in cases involving the disclosure of communications intelligence, there can be no prosecution unless the information is furnished to a representative of a foreign power or the disclosure is made with intent to harm the United States or aid a foreign power. The prosecution would normally be required to present in open court the classified information involved, in order to prove to the jury's satisfaction, that the information affects the national defense within the meaning of the statute. This requirement, which compounds the disclosure and constitutes an admission of the validity of the information, multiplies the damage done by the original disclosure and effectively forecloses prosecution.

These laws do not stop for even a moment those who attempt to destroy our intelligence services. Formerly those working against us communicated their secret information solely and directly to a foreign intelligence service, and were paid their \$50,000 reward. Today those who hawk our intelligence secrets are more sophisticated. They just as effectively damage their country by publishing all their knowledge in a book, collect \$250,000 in royalties,

and become a cause celebre in certain circles. By publishing their knowledge in a book, these men hope that legitimate concern for every American's First Amendment rights will sanctify their deeds. But valid and proper concern for the integrity of the First Amendment should not cloud the nature of their act. Think of it, gentlemen. Philip Agee is a former CIA employee, one who handled particularly sensitive assignments and who came into contact with numerous cooperating foreigners who support democracy and the goals of the United States. After leaving the Agency, he wrote a book detailing every identity of CIA sources and every aspect of CIA activities his sometimes faulty memory could recall (and also added substantial embellishment). In doing so, he has openly acknowledged the assistance of the Cuban intelligence service, a subsidiary of the Soviet KGB. If he had defected to Moscow, he would be recognized and reviled for what he is--a traitor. That he has accomplished his purpose, and the purpose of his mentors, by the publication of a book, must not obfuscate his act.

We need no official secrets act to protect our sources and methods, and we in intelligence do not <sup>EXPECT</sup> ask for one. We do need to be able to discipline those who freely assume the obligation of secrecy as members of our profession and then willingly repudiate it. I have proposed a bill which would establish a criminal penalty for the unauthorized disclosure of intelligence sources and methods. My proposal would not apply to the press--it would not apply to the average citizen. It would only apply to those Americans who, through an employment or contractual relationship, voluntarily assume the obligation to protect intelligence sources and methods information. The numerous

safeguards in the bill and in our judicial system rule out any possibility that the law could be used to silence the disclosure of illegal or improperly classified activities.

Do not view the proposal as contrary to American traditions or liberties. Congress has already determined that the type of protection I am seeking is appropriate for personal income tax information, for crop information, even for bank loan information. Surely the assets which have and will continue to <sup>PROTECT THE NATIONAL SECURITY</sup> help this country (avert a nuclear holocaust) are fitting candidates for equal treatment with the names of bank borrowers.

Mr. Chairman, disclosures of sensitive intelligence information have <sup>EXAMPLES</sup> damaged our ability to provide our Government with the kind of information needed to chart the foreign policy course of this nation. Exposures have compromised and in some cases endangered the lives of valuable sources. Brilliant technological schemes have been thwarted. A number of cooperative foreign officials and liaison services have indicated to me that they can no longer continue to pass us their sensitive information without guarantees that we can restrict its dissemination and release.

Perhaps more importantly, these exposures are threatening intelligence by deterring the cooperation of potential sources. The contribution to world peace of Col. Oleg Penkovsky is already part of history. Penkovsky was the highly-placed Soviet officer who provided the United States with accuracy and timely information on Soviet intentions during the Cuban missile crisis. He was executed in 1963 after being exposed by Soviet counterintelligence. Men like Col. Penkovsky are trying to help us today. They work with us

because they too believe in democracy, but they will not work with us if they perceive there to be a substantial risk they will be revealed. I urge this committee to endorse additional protection for intelligence sources and methods.